

REMARKS

This application has been carefully reviewed in light of the Office Action of March 23, 2006, wherein:

- A. The Examiner requested that the Applicants cross-reference US Applications, 10/773,394, 10/774,079, and 10/794,203;
- B. The Examiner requested that the Applicants provide a new title that “is more aptly descriptive of the invention.”
- C. Claims 1-16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
- D. Claims 1-3, 6-8, 10-13, 15, 16, 23-25, 29 and 30 were rejected under 35 USC 102(b) a being clearly anticipated by US Patent No. 6,137,802 to Jones; and
- E. Claims 4-5, 9, 14, 17-22, 26-28, and 31-32 were rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,137,802 to Jones, in view of US Patent No. 6,304,851 to Kmack.

Examiner's Requests

- A. On page 2 of the Office Action, the Examiner requested that the Applicants cross-reference US Applications, 10/773,394, 10/774,079, and 10/794,203. The Applicants amend the paragraph on page 1, cross-referencing the applications as requested by the Examiner.
- B. The Examiner requested that the Applicants provide a new title that “is more aptly descriptive of the invention.” The Applicants submit on page 2 of this response, a new title, “Unified, Configurable, Adaptive, Network Architecture.”

Claim Rejections – 35 U.S.C. §112

- C. The Examiner rejected Claims 1-16 under 35 USC. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

In the Office Action, the Examiner stated “a program by itself is unable to allow an administrator to selectively configure a port. It appears that means for executing the program and for allowing an administrator to selectively configure a port to support either wired or wireless edge devices are required in the network switch claimed.”

In a telephone conversation between the Examiner and the Applicants’ representative, Sarah Guichard, on June 28, 2006, the Examiner indicated that including “a processor for executing an application” would overcome the rejection. The Applicants amend Claims 1 and 10 to recite “a processor for executing an application …” Therefore, the Applicants respectfully request that the Examiner withdraw this rejection.

Claim Rejections – 35 U.S.C. §102

D. Claims 1-3, 6-8, 10-13, 15, 16, 23-25, 29 and 30 were rejected under 35 USC 102(b) a being clearly anticipated by US Patent No. 6, 137,802 to Jones, herein referred to as the “Jones patent.”

Regarding Claim 1

Claim 1 claims, in part, “a configurable port for connecting an edge device; and a processor for executing an application running on the network switch, for allowing an administrator to selectively configure the port to support either a wired edge device or a wireless edge device.”

In the Office Action, the Examiner rejected Claim 1 stating “a configurable port (ATM) for connecting an edge device, and an application (application 40 of Figure 2) running on the network switch, for allowing an administrator to selectively configure (Figure 3) the port to support (see wired and wireless in Figures 2 and 3) either a wired edge or a wireless edge device.” The Applicants respectfully disagree with the conclusions drawn by the Examiner.

In order to establish a *prima facie* case of anticipation, the Examiner must set forth an argument that provides (1) a single reference (2) that teaches or enables (3) each of the claimed elements (as arranged in the claim) (4) either expressly or inherently and (5) as interpreted by one of ordinary skill in the art. All of these factors must be present, or a case of anticipation is not met. As stated in the MPEP 2131, “[a] claim in

anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). The Applicants submit that each and every element of Claim 1 is not found in the Jones patent.

First, the Examiner stated that the Jones patent anticipates “a network switch, comprising: a configurable port.” The Applicants respectfully disagree. The Jones patent describes several connections to the ATM switch, “a backbone network 10, [is] made up of a plurality of ATM switches such as ATM switch 12, which are interconnected by fiber, cable or other suitable wired connection medium 14” (col. 3, lines 12-15), “the user device 28 is connected by a wired service medium 38 to the ATM switch 12,” col. 3, lines 19-20) and “base stations 30 and 32 … communicate with the ATM switch 12, preferably through wired facilities such as coaxial or fiber optic cables 34, 36” (col. 3, lines 24-26). None of these connections to the ATM switch are described as configurable.

Additionally, the Examiner stated that the Jones patent anticipates “a network switch, comprising: an application running on the network switch for allowing an administrator to selectively configure the port …” In his rejection of this element, the Examiner referred to Fig. 2, reference numeral 40. The Applicants submit that the application shown in Fig. 2 does not reside on the ATM switch, but rather on a user device. “The present invention encompasses an automatic medium switching apparatus and method by which any of the user devices 16-28 may communicate with the backbone network 10 using either wired or wireless service mediums, and may switch between wired and wireless service mediums, in accordance with predetermined criteria for selecting and utilizing either a wired or wireless service medium,” (col.3, lines 42-49). “Referring to Fig. 2, a modified protocol stack for use with both wired and wireless communications or service mediums, in accordance with the invention, is illustrated,” (col.. 3, lines 60-63). Additionally, the operation of the invention is described in col. 7, line 27 through col. 9, line 65, consistently refers to the actions of the “user device.” Therefore, the Applicants submit that the application shown in Fig. 2 resides on the user device and not on the ATM switch.

For the forgoing reasons, the Applicants submit that Claim 1 is patentable over the cited prior art.

Regarding Claims 2-9

Claims 2-9 depend on Claim 1. For the reasons provided above, the Applicants submit that Claim 1 is patentable over the cited prior art. Therefore, the Applicants submit that Claims 2-9 are also patentable over the cited prior art at least through their dependence upon an allowable base claim.

Claim 10

Claims 10 claims, in part, “a software application for allowing a user to input configuration information associated with the port.” As previously discussed, the software application disclosed by the Jones patent is not on the switch but resides on the user device. Therefore, the Applicants submit that the Examiner has failed to establish where in the Jones patent “a software application for allowing a user to input configuration information associated with the port” is taught, disclosed, or suggested. Therefore, the Applicants submit that Claim 10 is patentable over the cited prior art.

Claims 11-16

Claims 11-16 are dependent upon Claim 10. For the reasons given above, the Applicants submit that Claim 10 is patentable over the cited prior art. Thus, Claims 11-16 are also patentable over the cited prior art at least through their dependence upon an allowable base claim.

Regarding Claim 29

Claim 29 claims, in part, “a network switch comprising: ... a memory for storing a software image executable by a wireless edge device.” In rejecting Claim 29, the Examiner refers to Fig. 7 and states that a memory is inherent component to implement Figure 7. As previously noted, Figure 7 refers to operations that occur on the user device, see col. 7, lines 35-51. The Examiner has not pointed to anywhere in the Jones patent a “memory for storing a software image executable by a wireless edge device” is taught,

disclosed, or suggested. Therefore, the Applicant submit that Claim 29 is patentable over the cited prior art.

Regarding Claims 30-32

Claims 30-32 depend upon Claim 29. For the reasons given above, the Applicants submit that Claim 29 is patentable over the cited prior art. Therefore, Claims 30-32 are also patentable over the cited prior art at least through their dependence upon an allowable base claim.

Claim Rejections – 35 U.S.C. §103

E. Claims 4-5, 9, 14, 17-22, 26-28, and 31-32 were rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,137,802 to Jones, in view of US Patent No. 6,304,851 to Kmack.

Regarding Claim 17

Claim 17 claims, in part, “configuring the port to support either a wired edge device or a wireless edge device.”

In rejecting Claim 17, the Examiner stated “with respect to the first four steps of claim 17 and the claims directed to download configuration information to devices, Jones teaches claim combination set forth above. The Applicants respectfully disagree.

As stated in the MPEP 706.02(j), to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)

As stated above with respect to Claim 1, the Examiner has not shown where in the Jones patent a network switch having a configurable port. Therefore, the Examiner has not shown where in the Jones patent “configuring the port to support either a wired edge device or a wireless edge device,” is taught, disclosed, or suggested. Thus, the Applicants submit that Claim 17 is patentable over the cited prior art.

Regarding Claims 18-28

Claims 18-28 depend on Claim 17. For the reasons give above, the Applicants submit that Claim 17 is patentable over the cited prior art. Thus, Claims 18-28 are patentable over the cited prior art at least through their dependence upon an allowable base claim.

Concluding Remarks:

For all the foregoing reasons, reconsideration of and withdrawal of all outstanding rejections is respectfully requested. The Examiner is earnestly solicited to allow all claims, and pass this application to issuance.

The Applicants have enclosed with this response a petition for a one-month extension including authorization to charge our Deposit Account, No. 08-3038, for the requisite fee. The Applicants believe that no additional fees are owed in connection with this response. However, if any additional fee is in fact owing that is otherwise not accounted for, the Commissioner is hereby authorized to charge Deposit Account No. **08-3038**, (referencing Docket No. **02453.0021.NPUS00**) for the requisite fee. Additionally, if further extensions of time are required, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed. The petition fee due in connection therewith may be charged to deposit account no. 08-3038.

To expedite allowance of this case, the Examiner is earnestly invited to call the undersigned at (949) 759-5269.

Respectfully submitted,



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Date: July 13, 2006

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